222 733

COMMONWEALTH
vs.
Samuel J. Frost

INDICTMENT.

Murder

Worcester, ss. Superior Court, August Term, A. D. 1875. Returned by Grand Jury August 12th A. D. 1875, and filed by order of Court.

ATTEST, John A. Dana,

Ass't Clerk.

187 . mo., Def't ar'n'd, pleads not guilty

Worcester August 21. A.D. 1875
Sent notice & copy to Hon. H. Gray
Ch. Justice Sup. Jud Court.
and same day sent notice
and copy to Hon. Chas R Train
Atty-Genl
John A. Dana Ass't Clk
S.J.C.

Worcester ss S. J. Court
Sept 9th 1875 deft arraigned
and pleads not guilty
Att J. Mason Clk

1 Ave

Worcester ss S.J. Court Oct T. 1875
Oct 15 1875 The jury find that Samuel
J. Frost within named is guilty of
murder in the first degree.
Attest Joseph Mason Clerk

Commonwealth of Massachusetts Worcester ss.
Superior Court August Term A.D. 1875 -
And now this Indictment being returned by the Grand Jury
and it appearing to the court here that said Indictment
charges the said Samuel J. Frost with the crime of murder
It is ordered by the Court here that the said Indictment together
with the several orders of this court made thereon be transmitted
to the Supreme Judicial Court in said County to be entered in the
Docket of said Supreme Judicial Court.
And it is further ordered that the said Samuel J. Frost who is
now in the custody of the Sheriff of said County of Worcester
in our jail at Worcester in said County be held in confinement
in our said jail until he shall be delivered therefrom by
due course of law. Attest John A. Dana Ass't Clerk.

George H. Conant

Commonwealth of Massachusetts.

Worcester, ss.

At the Superior Court, begun and holden at Fitchburg ~~Worcester,~~ *within and for the County of Worcester, on the* Second *Monday of* August *in the year of our Lord one thousand eight hundred and seventy-*five

The Jurors for the Commonwealth aforesaid, on their Oath present,

THAT Samuel J. Frost

of Petersham in said County,

on the fourth day of July in the year eighteen hundred and seventy-five, at Petersham in said County, in and upon one Franklin P. Towne, whose name is otherwise called Frank P. Towne, feloniously, wilfully, and of his malice aforethought, did make an assault, and that he the said Samuel J. Frost, then and there, with a certain knife which he the said Samuel J. Frost, in both his hands, then and there had and held, him the said Franklin P. Towne, otherwise called as aforesaid in and upon the head of him the said Franklin P. Towne, otherwise called as aforesaid, then and there feloniously, wilfully, and of his malice aforethought, did strike, giving unto him the said Franklin P. Towne, otherwise called

as aforesaid

as aforesaid, then and there with the hammer aforesaid, by the stroke aforesaid, in manner aforesaid, in and upon the head of him, the said Franklin P. Towne, otherwise called as aforesaid, one mortal wound; of which said mortal wound he the said Franklin P. Towne, otherwise called as aforesaid, then and there instantly died.

And so the Jurors aforesaid upon their oath aforesaid, do say, that he the said Samuel J. Frost, him the said Franklin P. Towne, otherwise called as aforesaid, in manner and form aforesaid, then and there feloniously, wilfully, and of his malice aforethought did kill and murder.

And the Jurors aforesaid upon their oath aforesaid do further present that Samuel J. Frost of Petersham in said County, on the fourth day of July in the year eighteen hundred and seventy five at Petersham in said County of Worcester, in and upon the body of one Franklin P. Towne, whose name is otherwise called Frank P. Towne, feloniously, wilfully, and of his malice aforethought, did make an assault; and that he the said Samuel J. Frost, then and there, with his hands and

feet, him the said Franklin P. Towne, otherwise called as aforesaid, felloniously, wilfully, and of his malice aforethought, did strike, beat, and kick, in and upon the head, breast, back, belly, sides, and other parts of the body of him the said Franklin P. Towne, otherwise called as aforesaid; and did, then and there, feloniously, wilfully, and of his malice aforethought, cast and throw the said Franklin P. Towne, otherwise called as aforesaid, down into, and upon the floor, with great force and violence then and there giving unto him the said Franklin P. Towne, otherwise called as aforesaid, as well by the beating, striking, and kicking of him the said Franklin P. Towne, otherwise called as aforesaid, in manner and form aforesaid, as by the casting and throwing of him the said Franklin P. Towne, otherwise called as aforesaid, down as aforesaid, several mortal stabs, wounds and bruises, in and upon the head, breast, back, belly, sides and other parts of the body of him the said Franklin P. Towne, otherwise called as aforesaid; of which said mortal stabs, wounds and bruises, he the said Franklin P. Towne, otherwise called as aforesaid, then and there instantly died. And so the jurors aforesaid, upon their oath aforesaid, do say, that the said Samuel J. Frost, him the said Franklin P. Towne, otherwise called as aforesaid, in manner and form aforesaid, then and there feloniously, wilfully, and of his malice aforethought, did kill and murder -

And the Jurors aforesaid upon their oath
aforesaid do further present that
Samuel J. Frost of Petersham in said
County, on the fourth day of July in the year
eighteen hundred and seventy five, at
Petersham in said County of Worcester,
in and upon the body of one Franklin P.
Towne, otherwise called Frank
P. Towne, feloniously, wilfully, and of his
malice aforethought, did make an assault,
and him the said Franklin P. Towne,
otherwise called as aforesaid, in some way and
manner, and by some means, instruments, and
weapons, to the Jurors aforesaid unknown,
did then and there feloniously, wilfully and
of his malice aforethought, deprive of life,
so that he, the said Franklin P. Towne
otherwise called as aforesaid, then and there
instantly died. And so the Jurors afore-
said upon their oath aforesaid do say that he
the said Samuel J. Frost, him the said
Franklin P. Towne, otherwise called as
aforesaid, in the manner and by the means
aforesaid to them the said Jurors unknown,
then and there, feloniously, wilfully, and of
his malice aforethought, did kill and
murder against the peace and dignity of
the Commonwealth aforesaid, and contrary
to the form of the Statute in such case made
and provided -

And the Jurors aforesaid upon their oath
aforesaid do further present that
Samuel J. Frost of Petersham in said
County, on the fourth day of July in the year
eighteen hundred and seventy five at
Petersham in said County of Worcester,
in and upon the body of one Franklin P.
Towne, otherwise called Frank P. Towne,
feloniously, wilfully, and of his malice
aforethought, did make an assault, and
that he the said Samuel J. Frost, then and
there, with a certain piece of iron which the
Jurors aforesaid are unable more
particularly to describe, which he the said
Samuel J. Frost, in both his hands, then and
there had and held, him the said Franklin
P. Towne, otherwise called as aforesaid,
(in and upon the head of him, the said
Franklin P. Towne, otherwise called as
aforesaid,) then and there feloniously, wilfully,
and of his malice aforethought did strike,
giving unto him the said Franklin P.
Towne, otherwise called as aforesaid, then and
there with the piece of iron aforesaid, by the
stroke aforesaid, in manner aforesaid, in and
upon the head of him the said Franklin
P. Towne, otherwise called as aforesaid, one
mortal wound, of which said mortal
wound he the said Franklin P. Towne,
otherwise called as aforesaid, then and there
instantly died. And so the Jurors
aforesaid, upon their oath aforesaid, do say,
that he the said Samuel J. Frost him the
said Franklin P. Towne, otherwise called
as aforesaid, in manner and form aforesaid
then and there feloniously, wilfully, and
of his malice aforethought did kill and
murder, against the peace of said Common-
wealth, and contrary to the form of the
Statute in such case made and provided.

A True Bill

George H. Grout
Foreman of the Grand Jury

~~District Attorney~~

Hamilton B Staples
District Attorney of the Middle
District

733

Commonwealth

v.

Samuel J. Frost

Indictment - murder

Worcester ss Supreme Court
August Term A.D. 1875
Returned by Grand Jury
August 12th A.D. 1875 and filed
By order of Court
Attest
John A. Dana asst Clk

Copy of Filing Attest
John A. Dana
asst Clk

Aug 24 cic to Frost

Worcester ss August 24th A.D. 1875

By virtue hereof I this day gave in hand to the within named Samuel J. Frost a true and attested copy of this Indictment and Order of Court thereon

R. M. Gould
Dep. Sheriff

Frost Summ 50
Travel 8
Copy 2.00
$2.58

YGO

Commonwealth of Massachusetts

Worcester ss.

At the Superior Court begun and holden at Fitchburg within and for the County of Worcester, on the second Monday of August in the year of our Lord one thousand eight hundred and seventy five.

The Jurors for the Commonwealth aforesaid, on their oath present, that Samuel F. Frost of Petersham in said County on the fourth day of July in the year eighteen hundred and seventy five at Petersham in said County in and upon one Franklin P. Towne whose name is otherwise called Frank P. Towne feloniously wilfully and of his malice aforethought did make an assault and that he the said Samuel F. Frost then and there with a certain hammer which he the said Samuel F. Frost in both his hands then and there had and held, him the said Franklin P. Towne, otherwise called as aforesaid in and upon the head of him the said Franklin P. Towne, otherwise called as aforesaid, then and there feloniously, wilfully and of his malice aforethought did strike, giving unto him the said Franklin P. Towne otherwise called as aforesaid then and there with the hammer aforesaid, by the stroke aforesaid, in manner aforesaid in and upon the head of him the said Franklin P. Towne otherwise called as aforesaid, one mortal wound; of which said mortal wound he the said Franklin P. Towne otherwise called as aforesaid then and there instantly died.

And so the Jurors aforesaid upon their oath aforesaid do say that he the said Samuel F. Frost him the said Franklin P. Towne otherwise called as aforesaid in manner and form aforesaid, then and there feloniously wilfully and of his malice aforethought did kill and murder.

And the Jurors aforesaid upon their oath aforesaid do further present that Samuel F. Frost of Petersham in said County on the fourth day of July in the year eighteen hundred and seventy five at Petersham in said County of Worcester in and upon the body of one Franklin P. Towne, whose name is otherwise called Frank P. Towne feloniously wilfully and of his malice aforethought did make an assault; and that he the said Samuel F. Frost then and there with his hands and feet him the said Franklin P. Towne otherwise called as aforesaid feloniously wilfully and of his malice aforethought did strike, beat, and kick in and upon the head, breast, back, belly, sides and other parts of the body of him the said Franklin P. Towne otherwise called as aforesaid and did then, and there feloniously, wilfully and of his malice aforethought cast and throw the said Franklin P. Towne otherwise called as aforesaid down into and upon the floor with great force and violence then and there giving unto him the said Franklin P. Towne otherwise called as aforesaid, as well by the beating striking, and kicking of him the said Franklin P. Towne otherwise called as aforesaid in manner and form aforesaid, as by the casting and throwing of him the said Franklin P. Towne, otherwise called as aforesaid, down as aforesaid several mortal strokes, wounds, and bruises, in and upon the head, breast, back, belly, sides and other parts of the body of him the said Franklin P. Towne, otherwise called as aforesaid of which said mortal strokes, wounds and bruises, he the said Franklin P. Towne otherwise called as aforesaid then and there instantly died.

And so the Jurors aforesaid upon their oath aforesaid do say that the said Samuel F. Frost him the said Franklin P. Towne otherwise called as aforesaid, in manner and form

aforesaid then and there feloniously wilfully and of his malice aforethought did kill and murder.

And the Jurors aforesaid upon their oath aforesaid do further present that Samuel G. Frost of Petersham in said County on the fourth day of July in the year eighteen hundred and seventy five at Petersham in said County of Worcester in and upon the body of one Franklin P. Towne whose name is otherwise called Frank P. Towne feloniously wilfully and of his malice aforethought did make an assault and him the said Franklin P. Towne otherwise called as aforesaid in some way and manner and by some means, instruments and weapons to the Jurors aforesaid unknown did then and there feloniously wilfully and of his malice aforethought deprive of life, so that he the said Franklin P. Towne otherwise called as aforesaid then and there instantly died. And so the Jurors aforesaid upon their oath aforesaid do say that he the said Samuel G. Frost him the said Franklin P. Towne otherwise called as aforesaid in the manner and by the means aforesaid to them the said Jurors unknown then and there feloniously wilfully and of his malice aforethought did kill and murder against the peace and dignity of the Commonwealth aforesaid and contrary to the form of the Statute in such case made and provided.

And the Jurors aforesaid upon their oath aforesaid do further present that Samuel G. Frost of Petersham in said County on the fourth day of July in the year eighteen hundred and seventy five at Petersham in said County of Worcester in and upon the body of one Franklin P. Towne otherwise called Frank P. Towne feloniously wilfully and of his malice aforethought did make an assault, and that he the said Samuel

S. Frost then and there with a certain piece of iron which the Jurors aforesaid are unable more particularly to describe which he the said Samuel S. Frost in both his hands then and there had and held him the said Franklin P. Towne otherwise called as aforesaid in and upon the head of him the said Franklin P. Towne otherwise called as aforesaid, then and there feloniously wilfully and of his malice aforethought did strike giving unto him the said Franklin P. Towne otherwise called as aforesaid, then and there with the piece of iron aforesaid by the stroke aforesaid in manner aforesaid in and upon the head of him the said Franklin P. Towne called as aforesaid one mortal wound of which said mortal wound he the said Franklin P. Towne otherwise called as aforesaid then and there instantly died. And so the Jurors aforesaid upon their oath aforesaid do say that he the said Samuel S. Frost him the said Franklin P. Towne otherwise called as aforesaid in manner and form aforesaid then and there feloniously wilfully and of his malice aforethought did kill and murder against the peace of said Commonwealth and contrary to the form of the statute in such case made and provided.

A true bill

George H. Stout

Foreman of the grand jury

Hamilton B. Staples

District Attorney of the Middle District

Commonwealth of Massachusetts

Worcester ss. Superior Court August Term A.D. 1876

And now the Indictment is returned by the Grand Jury and it appearing to the Court here that said Indictment charges the said Samuel G. Frost with the crime of murder.

It is ordered by the Court here that the said Indictment together with the several orders of this Court made thereon be transmitted to the Supreme Judicial Court in said County to be entered in the Docket of said Supreme Judicial Court.

And it is further ordered that the said Samuel G. Frost who is now in the custody of the Sheriff of said County of Worcester in our Jail at Worcester in said County be held in confinement in our said Jail until he shall be delivered therefrom by due course of law.

Attest: John A. Dana

Asst Clerk.

On the within indictment it is ordered by the Superior Court that as soon as may be the within named Samuel G. Frost be served with a copy of said indictment with this order thereon by the Sheriff of said County of Worcester or his Deputy and that in manner aforesaid he the said Samuel G. Frost be notified that the said Indictment will be entered forthwith upon the docket of the Supreme Judicial Court in said County there to be heard and determined as the law directs

Attest: John A. Dana

Asst Clerk.

A Copy of Indictment & orders thereon

Attest John A. Dana Asst Clerk

Commonwealth of Massachusetts.

WORCESTER, ss. August 2 A. D. 187 5

By virtue hereof, I have arrested the body of the within named defendant

Samuel Josiah Frost

and have brought him before

Edwin Woods Esq., a Trial Justice within and for said county, at Barre in said county, for examination; and I have summoned as witnesses in behalf of Government,

H. J. Shattuck
Caroline P. Frost
Alvin H Babbitt
Samuel Lepton
Henry Glenn
Frank A Hicks
Leander H. Hathaway
Valentine A Mack
Orgie L Brown
John Rathbun
Alfred Parkhurst

FEES—Service,		$0 50
Travel,	14 miles,	1.40
Summoning	11 witnesses,	1.10
Travel for same,	20 miles,	4
Use of my team	17 miles,	1.50
Attending Court,		1.00
Paid for Board of Prisoner		2.00
Aid, Allen, Carey, Hixson, Shattuck, Babbitt, Cutting & Pope		10. 2
Use of Lockup	2 day	1.
		$24.50

Sylvester Bothwell } Deputy Sheriff. Constable of

A true Copy attest Edwin Woods Trial Justice

We hereby certify that we have traveled the number of miles, and attended the number of days, set against our respective names, as witnesses for the Government.

NAMES.	DAYS.	MILES.
Caroline P Frost	1	14
Alfred Parkhurst	1	16
Ronnie C Green	1	12
Samuel Wlepton	1	12
German Logan	1	12
Frank A Hicks	1	12
John M Rathbun	1	12
Geo L Brown	1	2
Luther P Marsh	1	14
Leander H. Hathaway	1	16
Henry J Shattuck	1	2
A H Babbitt	1	2

Received our fees in this case.

11 5.80 12.60 6.30
11.50 6.30
24.20 12.30 20.00
40.50

I do hereby certify that the extra charges on this warrant are reasonable and necessary, and the assistance required.

Sylvester Bothwell } Deputy Sheriff. Constable of

WORCESTER, ss. Aug 2 A. D. 187 5

Subscribed and sworn to this day.

Before me,

A true Copy attest Edwin Woods Trial Justice.

9. J. C. 733

COMMONWEALTH

ON COMPLAINT OF

Henry J Shattuck

VS.

Samuel J Frost

RECORD.

Commonwealth of Massachusetts.

WORCESTER, ss.

By virtue of the within Warrant, the Defendant is brought into Court this Second day of August A. D. 187 5, and the within complaint is read to h and being asked whether he y guilty or not guilty of the offence within charged upon he say that he y not guilty; and Mem's examination

but after due and full examination it is considered by me that he y guilty of the offence charged against h . It is therefore ordered by said Court, that the said Defendant ~~pay a fine of $~~ to the use prescribed by law, that he pay the costs of this prosecution taxed at $ and in default thereof that he stand committed to either of the ~~Houses of Correction~~ in said county till the same be paid or said Defendant be otherwise discharged in due course of law. Sent

Stand committed to either of the ~~Houses of Correction~~ in said county, ~~for the term of~~ till the months. next term of this Supreme Court to be holden at Fitchburg in said County on the second Monday of August current or to be discharged in due course of law

From this sentence Defendant appeals to the Superior Court next to be holden at within and for the said county of Worcester, on the Monday of next for the transaction of Criminal business, and is ordered to recognize with sureties in the sum of $ for his personal appearance at said Superior Court, then and there to prosecute his appeal according to law, and to abide the order and sentence of the Court, and also to appear at any subsequent term of said Court, to which the same may be continued, if not previously surrendered and discharged, and so from term to term, until the final decree, sentence or order of the Court thereon, and to abide such final sentence, order or decree of the Court, and not depart without leave, and in the meantime to keep the peace and be of good behavior, with which order Defendant

Edwin Woods Trial Justice.

A true Copy attest Edwin Woods Trial Justice

COSTS.

MAGISTRATE'S FEES, VIZ:

Travel,	$
Receiving Complaint, &c.	.50
Subpœna,	.10
Entry, Judgment, Recording, &c.	.75
Trial,	1.00
	$2.35

Officer's Fees,	24.50
Witnesses' Fees,	12.80
Officer's Fees on Mittimus,	
	$

Recognizance for further examination,	~~$0.20~~
Mittimus for further examination,	~~.25~~
Mittimus, final,	.25
Recognizance of Principal and Surety,	~~.20~~
Recognizance of Witnesses,	.20
Copies,	4.20
	$ 40.80

1.8
23
4.20

D BY SANFORD & COMPANY, STATIONERS,
192 MAIN STREET, WORCESTER.

CRIMINAL WARRANT.

Commonwealth of Massachusetts.

To Edwin Woods ESQUIRE, a Trial Justice, in and for the County of Worcester,

of Bare Henry J. Shattuck in the County of Worcester, on behalf of the COMMONWEALTH

OF MASSACHUSETTS, on oath, complains, That Samuel Josiah Pickett

of Petersham in the County of Worcester

on the

on the Fourth day of July in the year ~~of our Lord~~ Eighteen Hundred and Seventy five at Petersham in said County of and upon one Frank Pingree Town did make an assault, and that the said Samuel Josiah Frost, with a certain Club, in and upon the Head and Body of the said Frank Pingree Town then and there feloniously, wilfully, and of his malice aforethought, did Strike, cut and bruise said Frank Pingree Town, then and there with the Club aforesaid, so given to the said Frank Pingree Town, one mortal wound of which said mortal wound the said Frank Pingree Town then and there ~~died~~ instantly died, And do the ~~said~~ Henry J. Shattuck Complainant aforesaid upon his oath aforesaid doth say that the said Samuel Josiah Frost the said Frank Pingree Town in manner and form aforesaid feloniously wilfully and of his malice aforethought did kill and murder. And the said Henry J. Shattuck of Bare in the County of Worcester ~~on the Fourth day of July in the year of our Lord one thousand eight hundred and seventy five~~ in behalf of the Commonwealth of Massachusetts on oath further complains that Samuel Josiah Frost of Petersham in said County on the Fourth day of July Frank Pingree Town did make an assault and that the said Samuel Josiah Frost with a certain Harness Knife and upon the Head and Body of the said Frank Pingree Town then and there feloniously wilfully and of his malice aforethought did strike cut and bruise said Frank Pingree Town then and there with the said Harness aforesaid, in and upon the Head and Body of the said Frank Pingree Town, one mortal wound of which said mortal wound the said Frank Pingree Town then and there instantly died. And so the Complainant aforesaid upon his oath aforesaid, doth say that the said Samuel Josiah Frost the said Frank Pingree Town in manner and form aforesaid feloniously wilfully and of his malice aforethought did kill and murder

take and carry away.

He therefore prays that the said Samuel Josiah Frost

may be apprehended, and held to answer to said Complaint and dealt with relative to the same, as law and justice may require. and that Caroline O. Frost, Henry H. Babbitt, Augustus Upton, Henry Gunn, Francis C. Hale, Leander Hathaway Dorothea A. Martin, Dorcas Gates Brown may be summoned as witnesses

Henry J. Shattuck Complainant.

Commonwealth of Massachusetts.

WORCESTER, ss.

Taken and sworn to this First day of August in the year of our Lord one thousand eight hundred and seventy-five

Before me,

Edwin Woods Trial Justice.

Commonwealth of Massachusetts.

WORCESTER, ss. *To the Constable of the Commonwealth, or either of his Deputies, or to the Sheriff of our County of Worcester, or either of his Deputies, or any Constable or Police Officer of any city or town in said County,* GREETING.

L. S.

These are in the name of the COMMONWEALTH OF MASSACHUSETTS, to command you, the said Constable, Deputy Sheriff, Deputy Constable, and Police Officers, respectively, upon sight hereof, to take and bring before me, the subscriber, or some other Trial Justice, in said County of Worcester, the body of the above named

Samuel Josiah Frost

if to be found in your precinct, to answer to said Commonwealth on the foregoing complaint of

Henry J. Shattuck this day

made on oath before me, the subscriber. And you are also required to summon the complainant Caroline O. Frost Henry H. Babbitt, Samuel Upton, Henry Gunn, Francis C. Hale, Leander Hathaway Dorothea A. Martin, Dorcas Gates Brown, Jonathan W. Upton, Alfred Peckham

to appear and testify to what they know touching the matter of said Complaint. Hereof fail not.

Given under my hand and seal, at Bare in said County, this First day of August in the year of our Lord one thousand eight hundred and seventy-five

Edwin Woods Trial Justice.

A true Copy
Attest Edwin Woods Trial Justice

753

No. 222

Com'th vs. Frost

Aug Term, 1877

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222

Worcester, ss.

Superior Court, { for the Transaction of Criminal Business, } August Term, 187

Commonwealth vs. Samuel A. Frost

BILL OF COSTS.

Costs before Edwin Woods Esq pay $ $ 40 80

CLERK'S FEES.

Entry, taxing Costs, filing Papers, &c.,		1 00
Entry of appearance of Deft.,		10
Entering and Recording, { Verdict, Confession, / Nol. Pros, Laying on File, }		20
Entering and Recording Default,		
Warrant to arrest, Habeas Corpus,		
Warrant to { House of Correction, / Jail, State Prison, }		2 40
Subpœna, 2 Copies, 12		10
Continuance, Recognizance,		120
Recording Proceedings and Judgment,		
Certificate to Sheriff of Fine, &c., imposed,		25
Certificate of Costs to County Treasurer,		
Service of Warrant by R. M. Gould		2 60
Service of Subpœna by Sylvester Bothwell		7 20

Witnesses,—Attendance and Travel,

Forest H. Hicks	5.20	Henry H. Babbitt	5.00	10 20
Leander T. Hathaway	5.20	Henry J. Shattuck	5.00	10 20
Henry C. Conner	5.20	John C. Page	5.70	10 90
Hiram W. Smith				5 20
Caroline P. Frost				5 20
John Rathbun				5 20
Samuel A. Upton				5 20
Simon Legary				5 20
Alfred Peckham				4 90
J. Warren Upton				4 90
Benj. W. Hoomer				5 10
John O. Martin				4 90
George R. Brown				5 00
Sylvester Bothwell				5 00
			$	142 95

H. B. Staples *District Attorney for the Middle District.*

Examined and allowed. [illegible]

Asst. Clerk.

733

Caruth v. Samuel J. Frost

Order for arraignment

Filed Sept 7th 1875
Att J. Mason Clk

Commonwealth of Massachusetts.

Worcester ss. Supreme Judicial Court.

In vacation.

Commonwealth v. Samuel J. Frost.

Whereas an indictment against Samuel J. Frost, for the crime of murder, has been transmitted by the Superior Court for said County, to the Supreme Judicial Court for said County, and entered in said last named Court, and notice thereof sent to the Chief Justice of said Court, and to the Attorney General with a copy of said indictment

It is ordered that

Thursday the 9th day of September 1875 at 10 o'clock A. M. — at the Court house in Worcester, be, and the same hereby is appointed as the time and place, for the arraignment of the prisoner named in said indictment.

Chas Devens Jr

Asso. Jus. S. J. C.

TRAIN & TEELE,
ATTORNEYS AND COUNSELLORS AT LAW,
7 COURT SQUARE.

CHAS. R. TRAIN,
J. O. TEELE.

Boston, Sept. 7 1875.

Dear Mr Mason.

Mrs Carl the Sheriff, to bring in the prisoners on ~~Sale~~ Thursday morning for the arraignment & to notify Mr Staples to be present & shall come up in the 8 1/2 train.

Yours truly

Chas. R. Train

Joseph Mason Esq

Commonwealth
vs.
Samuel J Frost.

Motion for a
change of venue.

St 1871 c 240.

Filed Oct 12 1875
Att J. Mason Clerk

Commonwealth of Massachusetts.

Worcester, SS. Supreme Judicial Court
October Term A.D. 1875.

Commonwealth
v.
Samuel J. Frost } Petition for Change of Venue.

Now comes Samuel J Frost of Petersham in said county and says that at the Superior Court begun and holden at Fitchburg within and for the County of Worcester on the second Monday of August now last past the Grand Jury for said county returned an indictment against him the said defendant wherein the said defendant is charged with the murder of one Franklin P. Towne otherwise called Frank P. Towne, that said indictment is now pending in the Supreme Judicial Court for said County and that Tuesday the Twelfth day of October

court has been assigned for the trial of said indictment; that your petitioner believes and has reason to believe that an impartial trial cannot be had in this county where the cause is pending because your petitioners says false, erroneous and highly colored narrations of the facts and premature publication of the evidence upon which the government relies have been published and circulated throughout said county; that unauthorized and untrue statements of your petitioners defense have also been made and circulated widely accompanied with comments calculated to materially prejudice your petitioners cause; that the offence of which your petitioner stands charged has been characterized in the public prints in said county as "one of the most atrocious and diabolical ever perpetrated in this State and "one for which, if committed in any section of the country west of the New England States, he, your

petitioner would have been launched
into eternity on the nearest available
tree by an infuriated mob," that these
various editorials and comments have
inflamed the minds of the people and
of the jury before whom your petitioner
would be tried against your petitioner.
And your petitioner craves leave to
refer your Honor in particular to the
annexed copy of the "Worcester Daily
Spy" a newspaper published at Worcester
in said County on Monday October 11,
1875. Said newspaper having an extensive
circulation throughout said City and
County.

Wherefore your petitioner prays the
Court to order said indictment
to be heard and tried in the adjoining
County of Hampden or in such other
adjoining County as to your Honor
may seem meet.

Samuel J. Frost

No. 733

Com'th vs. Frost

Term, 187

$

Worcester, ss.

Supreme Court, { *for the Transaction of Criminal Business.* October Term, 1875

Commonwealth vs. Samuel P. Frost

BILL OF COSTS.

Costs before	pay $		$
CLERK'S FEES. Entry, taxing Costs, filing Papers, &c.,			1. 00
Entry of appearance of Deft.,			11
Entering and Recording, { Verdict, Confession, / Nol. Pros, Laying on File, }			20
Entering and Recording Default,			
Warrant to arrest, Habeas Corpus,			
Warrant to { House of Correction, / Jail, State Prison, }			
Subpœna, Copies, 10 P. P.			12 00
Continuance, Recognizance,			
Recording Proceedings and Judgment,			2 00
Certificate to Sheriff of Fine, &c., imposed,			
Certificate of Costs to County Treasurer,			25
Service of Warrant by			
Service of Subpœna by { Sylvester Bothwell	23.90.		
Witnesses — Attendance and Travel,			
Jewell Goddard			8 00
Robert P Whitehouse			14 00
C. C. Baldwin			1 35
			$

District Attorney for the Middle District.

Examined and allowed.

Asst. Clerk.

No.

Commonwealth of Massachusetts.

Worcester, ss. To Charles C. Baldwin of the City and County of Worcester, bringing with you books and papers,

GREETING.

IN THE NAME OF THE/SAID COMMONWEALTH, you are hereby required to appear before the Supreme Judicial Court at Worcester in the County of Worcester, on Tuesday the Twelfth day of October instant at ten of the clock in the fore noon; then and there in said Court to testify, ~~in behalf of said Commonwealth~~, what you know relative to an indictment there pending.

Hereof fail not, as you will answer your default under the pains and penalties by law in that behalf provided. And the Sheriff of the County of Worcester, his Deputies and the Constables of the Commonwealth or of any Town or City in said County, are in like manner, and under the like penalties commanded to make legal service and due return of this process.

Dated at Worcester, this 11 th day of October in the year of our Lord one thousand eight hundred and seventy-

John A Dana

Asst. Clerk.

WORCESTER, ss. Oct Term 1875

A. D. 1875. By virtue of this precept, I this day summoned the within named Charles C Baldwin

to appear at Court as within directed, by giving to ~~each of them~~ him in hand a true and attested copy of this precept. ~~And on the day of aforesaid, I also summoned the within named~~

~~to appear at Court as within directed, by leaving at *the* last and usual place of abode *of each* a true and attested copy of this precept.~~

Fees, viz:

Service, - - - - - - - -		10
Travel, 2 R.R. 40 miles, -		20
Copies, - - - - - - - -		25
		55

This subpoena was granted by the Commonwealth to Charles G. Hosmer in behalf of the Trial for murder Feb 12 1875 - Trial Com. D.A. Hall Worcester Sheriff's Office

E. Rideout
Dept. Sheriff

No.

Commonwealth of Massachusetts.

Worcester, ss. To Henry J. Shattuck P. H. Babbitt and Sylvester Bothwell Jr of Barre severally bringing with you all articles in your possession relating to the estate of Henry E. Rice of Barre with Plan of premises — George L. Brown of said Barre — Caroline L. Rice. Samuel Upton and Mary Upton. Benj W. Spooner, J. H. Upton. John M. Rathbun, Charles Rathbone, John G. Madge, Amelia Alexander — Sheridan Johnson + Mary Spooner, Luther Stone — Joseph L. Moore + Thomas Aldrich — Levi Hicks — Judson Spooner — Benj M. Crooker — Martin, Alfred Peckham — Lucien Hathaway all of Petersham severally bring with you all articles in your custody relating to said appeal S. D. Goddard, sixth note, mortgage and certificate of petition held by Mary Cook of Frost Park —

Mr & Mrs L. S. Clark of Grafton —

Mr. Hastings of Dana —

E. G. Stone of Worcester. Mrs Stone

John Page + Hardwick bringing with you the notes and personal property mortgaged to you by Frost July 8 1878

Geo H. Jolin of Ware —

Case Prof Thompson.

Samuel Lt Bartlett

Saml J. Frost

No.

IN THE NAME OF THE SAID COMMONWEALTH, you are hereby required to appear before the Supreme Judicial Court at Worcester in the County of Worcester, on Tuesday the Twelfth —— day of October current at 10 —— of the clock in the fore noon; then and there in said Court to testify, in behalf of said Commonwealth, what you know relative to an Indictment against Samuel J. Frost for murder —— there pending.

Hereof fail not, as you will answer your default under the pains and penalties by law in that behalf provided. And the Sheriff of the County of Worcester, his Deputies and the Constables of the Commonwealth or of any Town or City in said County, are in like manner, and under the like penalties commanded to make legal service and due return of this process.

Dated at Worcester, this Fifth —— day of October in the year of our Lord one thousand eight hundred and seventy-five —

John A. Dana

Asst. Clerk.

WORCESTER, ss. October A. D. 187[illegible]. By virtue of this precept, I this day summoned the within named Henry J. Chatterton, P. H. Bothwell, Henry E. Rice, G. L. Brown, Levi Fiske, Cordin P. Frost, Samuel Upton, Mary Upton, Benjamin F. Spooner, J. M. Upton, J. L. Priddy & Amelia Alexander, Sheridan Tolman, Henry L. Grover, Luther Stone, Joseph L. Moore, Thomas Aldrich, Judson Spooner, Benjamin M. Crockett, D. Martin, Alfred Putnam, L. D. Goddard, Brandon Hathaway, Eunice Snow, John M. Rathburn, Charles Rathburn, Abel Hastings, John Paige, and George F. Joslin

to appear at Court as within directed, by giving to *each of them* in hand a true and attested copy of this precept. ~~And on the day of~~ aforesaid, I also ~~summoned the within named~~

to ~~appear at Court as within~~ directed, by leaving at *the* ~~last and usual~~ place of abode *of each* a true and attested copy of this precept.

Fees, viz:

Service, - - - - - - - -		1	40
Travel, 125 miles, -	8	25	460 / 460 / 8.25
Copies, - - - - - - - -		4	75
Horse & Carriage 40 m.		6	00
Paid Stockwell & Co for Horse & Carriage		3	00
		$ 23	40

Sylvester Bothwell
Deputy Sheriff

WORCESTER, ss. In the service of this precept it was necessary for me to use a horse and carriage, and I have actually used such conveyance 40 — miles,

Sylvester Bothwell DEP SHERIFF.

733

J. M. D.

No.

Commonwealth of Massachusetts.

Worcester, ss. To

Robert B. Whitcomb
of Littleton in the
State of New Hampshire

GREETING.

IN THE NAME OF THE SAID COMMONWEALTH, you are hereby required to appear before the Supreme Judicial Court at Worcester in the County of Worcester, on Tuesday the twelfth day of October current at 10 of the clock in the noon; then and there in said Court to testify, in behalf of said Commonwealth, what you know relative to an indictment there pending.

Hereof fail not, as you will answer your default under the pains and penalties by law in that behalf provided. And the Sheriff of the County of Worcester, his Deputies and the Constables of the Commonwealth or of any Town or City in said County, are in like manner, and under the like penalties commanded to make legal service and due return of this process.

Dated at Worcester, this 12th day of October in the year of our Lord one thousand eight hundred and seventy-five.

Joseph Mason *Asst. Clerk.*

WORCESTER, ss. October 13th A. D. 1875. By virtue of this precept, I this day summoned the within named

Witness

to appear at Court as within directed, by giving to ~~each of them~~ him in hand a true and attested copy of this precept. ~~And on the day of~~ aforesaid, I also summoned the within ~~named~~

~~to appear at Court as within directed, by leaving at the last and usual place of abode of each a true and attested copy of this precept.~~

Fees, viz:

Service, - - - - - -		10
Travel,	2 miles, -	20
Copies, - - - - - -		21
		55

D M Eaton
Dep Sheriff

Dennis Subpoena was
granted by the Commonwealth to Sam'l L Frost
on his trial for Murder
murder before Supr Court
Oct. 12 1875 Trial Dec. 4 comp
Wells Stokes
Dist Atty

No.

Commonwealth of Massachusetts.

Worcester, ss. To Sewall Goddard, Norman Loring, and Mrs. S. J. Frost, Benjamin Crockett

GREETING.

IN THE NAME OF THE SAID COMMONWEALTH, you are hereby required to appear before the Supreme Judicial Court at Worcester in the County of Worcester, on Tuesday the twelfth day of October instant at ten of the clock in the fore noon; then and there in said Court to testify, ~~in behalf of said Commonwealth~~, what you know relative to an indictment there pending.

Hereof fail not, as you will answer your default under the pains and penalties by law in that behalf provided. And the Sheriff of the County of Worcester, his Deputies and the Constables of the Commonwealth or of any Town or City in said County, are in like manner, and under the like penalties commanded to make legal service and due return of this process.

Dated at Worcester, this tenth day of October in the year of our Lord one thousand eight hundred and seventy-five

Thos. A. Dana

Asst. Clerk.

WORCESTER, ss. October 11th A. D. 1875. By virtue of this precept, I this day summoned the within named Lewell Goddard, Norman Loring Mrs. B. J. Frost and Benjamin Crockett

to appear at Court as within directed, by giving to *each of them* in hand a true and attested copy of this precept. ~~And on the day of named aforesaid, I also summoned the within~~

By Foster Bothwell
Deputy Sheriff

~~to appear at Court as within directed, by leaving at~~ *the* last and usual place of abode *of each* a true and attested copy of this precept.

Fees, viz:

Service, - - - - - - - -		40	
Travel, 66 miles, -	5	30	530
Copies, - - - - - - - -	1	40	
Horse to Lancaster 11 mm	1	50	
	8	20	

WORCESTER, ss. In the service of this precept it was necessary for me to use a horse and carriage, and I have actually used such conveyance ~~one~~ miles,

By Foster Bothwell DEP SHERIFF.

Hus Subpoena was granted by the Com. Jurisdiction to Sam. D. Thurston by leave for hearing Oct 12, 1875 Fare out & back H B Stanley Dist Atty

66 — 4 00 00
40 — 4,00
26. 1 30
5.30

No. 733.

Sup. Jud. Court.

Com'th vs. Frost

Appr Term, 1876

$

Worcester, ss.

Superior Court, { *for the Transaction of Criminal Business,* April *Term,* 1876

Commonwealth vs. Samuel J. Frost

BILL OF COSTS.

			$	
Costs before		pay $		
CLERK'S FEES.	Entry, taxing Costs, filing Papers, &c.			1 00
	Entry of appearance of Deft.			
	Entering and Recording { Verdict, Confession, / Nol. Pros, Laying on File, }			20
	Entering and Recording Default,			
	Warrant to arrest, Habeas Corpus,			
	Warrant to { House of Correction, / Jail, State Prison, }			1 00
	67 Subpœna 170 Copies, 60			
	Continuance, Recognizance,			
	Recording Proceedings and Judgment,			60
	Certificate to Sheriff of Fine, &c. imposed,			
	Certificate of Costs to County Treasurer,			25
Service of Warrant by E. J. Russell				55
Service of Subpœna by { W. H. Earle / Sylvester Bothwell }				55
Witnesses,—Attendance and travel,				8. 20
			$	

District Attorney for the Middle District.

Examined and allowed,

Asst. Clerk.

Filed June 5th 1876

Attest

John A. Dana

Ag't Clerk

The Commonwealth of Massachusetts.

To Augustus B. R. Sprague of Worcester
Sheriff of Our County of Worcester
Greeting:—

L. S.

Whereas, at a Term of Our Supreme Judicial Court begun and holden at Worcester, within and for the County of Worcester on the first Tuesday of October being the fifth day of said month in the year of Our Lord, one thousand, eight hundred and seventy five, Samuel J. Frost of Petersham in said County, was convicted of the crime of Murder in the First Degree, and thereupon, by Our said Court the said Samuel J. Frost was sentenced, for said crime, to suffer the pains of Death by being hanged "by the neck till he be dead"; all which by an Exemplification of the Record of said Court, which we have caused to be hereunto annexed, doth to us fully appear.

Alexander H. Rice

We therefore command you, That upon Friday, the twenty-sixth day of May, in the year eighteen hundred and seventy-six, between the hours of nine o'clock before noon and twelve o'clock Meridian, of the same day within the walls of the prison in said County, or within the enclosed yard of such prison in said County of Worcester, agreeably to the provisions of the

One hundred and seventy fourth chapter of Our General Statutes, you cause execution of the said sentence of Our said Court, in all respects to be done and performed upon him the said Samuel J. Frost for which this shall be your sufficient Warrant:

Whereof fail not at your peril, and make Return of this Warrant with your doings thereon into Our Secretary's Office, as soon as may be, after you shall have executed the same

Witness, His Excellency, Alexander H. Rice, Our Governor, with the advice and consent of Our Council, and Our Seal hereunto affixed at Boston, this nineteenth day of April in the year of Our Lord, One thousand eight hundred and seventy-six, and in the One hundredth year of the Independence of the United States of America

By His Excellency the Governor
with the advise and consent of the council }

Henry B. Peirce
Secretary of the
Commonwealth }

Worcester S.S. Worcester May 26 1876

By virtue of the foregoing and the within Warrant to me directed, and in obedience to the command therein contained I this day, between the hours of nine o'clock before noon, and twelve o'clock Meridian, to wit: at thirty-eight minutes past ten o'clock A.M. of the said twenty-sixth day of May, eighteen hundred and seventy six within the walls of the prison in Worcester in the said County of Worcester, and in the presence of the persons hereinafter named, did cause the sentence of death named in said Warrant to be executed upon Samuel J. Frost of Petersham in said County of Worcester, the person named in said Warrant, Convict of the crime of murder by causing the said Samuel J. Frost, convict as aforesaid, to be hanged by the neck until he was dead: and the said sentence was then and there executed upon the said Samuel J. Frost, in accordance with the provisions of the one hundred and seventy-fourth chapter of the General Statues of the Commonwealth of Massachusetts, in all respects.

And after the fact, that life was extinct in the body of the said Samuel J. Frost and that the said Samuel J. Frost was dead, had been formally certified to me by Doctors Rufus Woodward and

George Jewett, Physicians and Surgeons, who were in attendance at my request. I caused the dead body of the said Samuel J. Frost to be removed from public view, and immediately thereafter on the same day I delivered the dead body of the said Samuel J. Frost to Waldo E. Sissions a public undertaker of said Worcester that the said body of the said Samuel J. Frost might be conveyed and delivered to the relatives of the said Samuel J. Frost, for interment, in accordance with the request of said relatives.

I also certify that several days previous to the twenty sixth day of May named in the within Warrant, for the execution of the sentence therein named, upon the said Samuel J. Frost, I addressed letters to the District Attorney and to the assistant District Attorney for the Middle District, and also the Clerk and several assistant Clerks of the Courts for the said County of Worcester, informing them severally of the time and place, when and where the execution of the said sentence upon the said Samuel J. Frost, would take place, and respectfully requested them severally to be present at said execution.

The following named persons holding commissions under me as Deputy Sheriffs, were present at my request at the time and place named for execution, and assisted me in the execution of the

command in the Warrant aforenamed, namely, David M. Earle, Augustus W. Kune, Sylvester Bothwell Ed J. Russell, R. M. Gould, S. Davis Hall, & James M. Denman. I also in pursuance of the provisions of said Statute addressed letters to the persons hereinafter named, being twelve and more reputable Citizens of the said County requesting them severally to be present at the Jail in Worcester in the County of Worcester aforenamed at ten o'clock before noon of the said twenty-sixth day of May, to witness the execution of the said sentence of death upon the said Samuel J. Frost, convict as aforesaid: and they severally were present and each and all of them witnessed the execution of the said sentence of death upon the said Samuel J. Frost, according to the terms of the aforementioned Warrant and pursuant to the provisions of the Statute hereinbefore named.

And the names of said persons follow, to wit: Rufus Woodward M. D. George Jewett M. D. J. N. Bates M. D. J. Marcus Rice M. D. Warren Tyler M. D. Emerson Warner M. D. Albert Wood M. D. F. W. Brigham M. D. J. C. Marble M. D. Clark Jillson, T. K. Ware, George R. Spurr, Charles S. Turner, Thos. S. Johnson, Wm S. Barton, John R. Thayer, Lyman Brooks, W. Ansel Washburn, Josiah Pickett, Wm A. Smith. John Hopkins & Geo. H. Ball, Esqs. Counsel of the said Frost were also

present.

And at the request of said Samuel J. Frost, there was present the Reverend C. M. Lamson, a Minister of the Gospel who was the spiritual adviser of the said Samuel J. Frost

And I also informed the wife and brother, being personally known to me as relatives of the said Samuel J. Frost that they might be present at said execution.

And there were present at said execution, by my order, such officers of the Prison, Policemen, and other assistants as in my judgment were expedient and necessary to insure the preservation of order and decorum in and about the said Prison and the neighborhood thereof.

Augustus B. R. Sprague
Sheriff of the County of Worcester

A True Copy of the Warrant and return thereon

Augustus B. R. Sprague
Sheriff of the County of Worcester

Commonwealth

vs.

Samuel Joseph Frost

Recognizance of

Witnesses

,20

Commonwealth of Massachusetts

Worcester ss.

Be it remembered that on the Second day of August in the year of our Lord One Thousand Eight Hundred and Forty Five, Henry J. Shattuck of Bane Pliny H. Babbitt and Josiah Reed, Henry J. Shattuck of Bane, Caulin P. Hunt, Samuel Dodge Geo L. Brown all of Bane, Dan Luther A Upton Forest A Hicks, Leander Hathaway, Dan Luther A Martin, John Rathbone Henry Gove Alfred Peckham German Lazare, and H. W. Smith all of Petersham appeared before me Edwin Wood one of the Trial Justices in and for the County of Worcester and acknowledged themselves to be severally indebted to the Commonwealth of Massachusetts in the sum of Fifty Dollars to be levied on their goods or chattels lands or tenements and in want thereof upon their bodies if default be made in the performance of the condition hereunder written.

The Condition of the above written recognizance is such that if the said Henry J. Shattuck, Pliny H. Babbitt, Dan George L. Brown, Caulin P. Hunt Samuel Upton Forest A Hicks, Leander Hathaway, Dan Luther A Martin John Rathbone Henry Gove, Alfred Peckham, H. W. Smith and German Lazare shall appear before the Justices of the Supreme Court next to be holden at Worcester in and for the County of Worcester for the trial of Criminal Cases on the second Monday of August next and answer thereto and then & there testify in behalf of the Commonwealth upon the Complaint of One Henry J. Shattuck against one Samuel Josiah Hunt or herein the said Henry J. Shattuck charges the said Samuel Josiah Hunt with feloniously killing and murdering one Frank Pengue Town, then & there having been deceased by one & the material then the above written Recognizance to be void and of no effect. otherwise to abide in full force power and virtue

Edwin Wood
Justice